

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of AIJIAHNA MOORE, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

BRANDY MOORE,

Respondent-Appellant.

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UNPUBLISHED

July 6, 2006

No. 267356

Jackson Circuit Court

Family Division

LC No. 03-003296-NA

Before: Davis, P.J., and Sawyer and Schuette, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to her minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

**I. FACTS**

Respondent gave birth to Aijiahna Moore when she was seventeen years old and living in a foster home. Aijiahna was removed from respondent's care after disputes arose between respondent's foster parents and respondent over who had responsibility for Aijiahna. Respondent was given a service plan that required her to complete parenting classes, comply with random drug screens, maintain a stable source of income and housing, and attend parenting time. An initial permanent custody hearing resulted in respondent's rights to Aijiahna not being terminated but rather ordered that respondent continue her service plan and that Aijiahna remain in her foster care placement<sup>1</sup>. At the second permanent custody hearing, foster care supervisor Jackie McIntosh testified that respondent had not participated in services since the first permanent custody hearing because she had moved from Battle Creek to Wayne County and did not have transportation to participate in services there. McIntosh testified that respondent had not submitted to drug screens and had lived with her boyfriend, Dalon Terry. McIntosh was concerned with this arrangement as Terry had a criminal history that included two convictions for assault with a dangerous weapon. McIntosh testified that respondent worked unverifiable odd jobs and then in a salon for approximately a month until her move back to Battle Creek.

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<sup>1</sup> The court did order the termination of the parental rights of Aijiahna's father, Michael Thomas under MCL 712A.19b(3)(a)(ii) and (c)(i).

Respondent's mentor, Kathleen Conley, testified that the visits she supervised between mother and child were appropriate and that she had no concerns about respondent's ability to care for her child. She also testified that she believed that termination of respondent's parental rights was not in Aijiahna's best interests because respondent could overcome the obstacles preventing her from gaining custody of Aijiahna back.

Respondent testified that she had moved from Battle Creek to Wayne County where she had a child with Terry and became pregnant with another one. Respondent said she moved back to Battle Creek in hopes of maintaining Terry's parental rights over their child. Respondent also stated that she planned to move to a temporary residence in Jackson until she could gain a permanent one. Respondent said she had difficult time participating in services for her treatment plan in Wayne County because she did not have a license.

At the conclusion of the second custody hearing, the trial court terminated respondent's parental rights under MCL 712A.19b(3)(c)(i), (g) and (j). The court found significant barriers that prevented respondent from becoming a successful parent, such as lack of housing and employment and respondent's immaturity and poor decision-making, and that termination would be in Aijiahna's best interests.

## II. STATUTORY GROUNDS FOR TERMINATION

### A. Standard of Review

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). The trial court's decision is reviewed under the clearly erroneous standard. MCR 3.977(J); *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). A finding of fact is clearly erroneous if a reviewing court is left with a definite and firm conviction that a mistake was made. *Id.* In applying the standard, this Court should recognize the special opportunity the trial court has to assess the credibility of the witnesses. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

### B. Analysis

The trial court did not clearly err in finding that statutory ground for termination of respondent's parental rights had been established by clear and convincing evidence. Respondent's parental rights were terminated pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We agree that the trial court properly terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i) and (g). Since only one statutory ground needs to be found, we will not address the merits of subsections 3 (j). Subsections (c)(i) and (g) provide, in pertinent part:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

\* \* \*

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds...

(i) The conditions that led to adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

\* \* \*

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age. [MCL 712A.19b(3)(c)(i), (g).]

The conditions which led to the adjudication were respondent's inappropriate and immature behaviors. Respondent repeatedly was absent from her foster care placements and became pregnant with Aijahna on a home visit at just seventeen years old. While respondent was seen as a capable mother, her decision-making over the two years while her daughter was in foster care showed the continuance of her immaturity. Respondent moved to Wayne County shortly after the first permanent custody hearing, despite the caseworker's warnings that it would be difficult to complete her treatment plan there. Respondent lived with her boyfriend, Dalon Terry, who had a history of involvement in violent crimes. Despite her financial situation and inability to gain custody over her first child, respondent had a second child with Terry and was pregnant with another child of Terry's at the time of the second permanent hearing. The trial court's concerns regarding respondent's maturity and decision-making were supported by clear and convincing evidence in the record. Furthermore, because respondent had not attended individual therapy since the first permanent custody hearing, there was no reasonable likelihood that her maturity and decision-making would improve within a reasonable time.

Additionally, the trial court did not clearly err in finding that respondent was unable to provide proper care or custody for her child. A parent's failure to comply with a treatment plan is evidence of failure to provide proper care and custody of a child. *In re JK, supra* at 214. Although there was evidence that respondent's parenting skills were not a concern, respondent's inability to maintain stable housing and employment, and to follow through with the individual counseling and random drug screens required by her treatment plan demonstrated that respondent was not ready for the return of her child. Respondent moved from Battle Creek, to Wayne County, back to temporary housing in Battle Creek and had plans to move to Jackson at the time of the second permanent custody hearing. She worked at a salon for a short time while living in Wayne County, but was unemployed in Battle Creek at the time of the second custody hearing and would have to restart the job search process upon moving to Jackson. There was no evidence that respondent would be able to secure stable housing and employment within a reasonable time. Furthermore, respondent had not submitted to the required drug screens and could not attend counseling while living in Wayne County as she did not have a drivers license or convenient mode of transportation. Respondent completely failed to comply with the service plan provided to her. The trial court did not clearly err in finding that the record contained clear and convincing evidence that respondent failed to provide proper care and custody for her child and that there was no reasonable expectation that she would be able to do so within a reasonable

time. Thus, the trial court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(c)(i) and (g).

### III. BEST INTERESTS OF THE CHILD

#### A. Standard of Review

Once a statutory ground for termination has been established by clear and convincing evidence, the trial court shall order termination of parental rights unless the court finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich App 346, 352-354; 612 NW2d 407 (2000). Decisions terminating parental rights are reviewed for clear error. *Id.* at 356-357. A finding of fact is clearly erroneous if a reviewing court is left with a definite and firm conviction that a mistake was made. *In re JK*, *supra* at 209-210. In applying the standard, this Court should recognize the special opportunity the trial court has to assess the credibility of the witnesses. MCR 2.613(C); *In re Miller*, *supra* at 337.

#### B. Analysis

We also find that the trial court did not clearly err in its best interests determination. While respondent's visits with Aijiahna were appropriate and a bond did exist, respondent only visited with Aijiahna when someone brought Aijiahna out to respondent in Wayne County. Aijiahna had been in foster care for over two years waiting for her mother to comply with the treatment plan. Respondent did not have stable housing or employment to provide for her daughter and was involved in a relationship with a man who had a violent criminal history. The trial court did not clearly err in finding that it was in Aijiahna's best interests to give her permanence and stability by terminating respondent's parental rights.

Affirmed.

/s/ Alton T. Davis  
/s/ David H. Sawyer  
/s/ Bill Schuette